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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,339	05/11/2001	Dan Kikinis	007287.00040	8678
22907 7590 06/26/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER VAN HANDEL, MICHAEL P	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/854,339

Applicant(s)

KIKINIS ET AL.

Examiner

MICHAEL VAN HANDEL

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 8-10, 12-14, 16, 19-21, 23-25, 27, 29-31, 33 and 35-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 8-10, 12-14, 16, 19-21, 23-25, 27, 29-31, 33, 35-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 3/31/2008. Claims **1-3, 5, 8-10, 12-14, 16, 19-21, 23-25, 27, 29-31, 33, 35-40** are pending. Claims **1, 12, 23, 33** are amended. Claims **4, 6, 7, 11, 15, 17, 18, 22, 26, 28, 32, 34** are canceled. Claims **35-40** are new.

Response to Arguments

1. Applicant's arguments regarding claims **1, 12, and 23**, filed 3/31/2008, have been fully considered, but they are not persuasive.

Regarding claims **1, 12, and 23**, the applicant argues that Rowe et al. does not teach or suggest a virtual world. The examiner respectfully disagrees. The applicant specifically argues that showing a logo is not a presentation of a virtual world. The applicant further specifically argues that, for Rowe et al. to teach the features of a virtual world related to the content in Figure 2, Rowe et al. would need to show a virtual world of a basketball court, or a basketball arena.

As noted in the Office Action mailed 12/31/2007, Rowe et al. discloses storing programming information within one or more databases and retrieving the information to support the display of the selected programming information by the display system. A program summary panel 90 communicates detailed information about a selected program tile appearing within the viewing panel (col. 14, l. 8-20 & Figs. 2-8). The information in the program summary panel 90 is updated as the subscriber changes the selected tile appearing within the viewing panel (col. 14, l. 21-32). The program summary panel 90 includes a preview section 92 and a text

description section 94. The preview section can show actual broadcast video data or preview media information, including an “on-demand” attract clip or a still graphic image (col. 14, l. 33-45). For example, in Figures 2-8, the preview section shows a graphic image of a basketball and the logo “NCAA” centered on the basketball. The graphic image is consistent with the text presented within the text description section, specifically “NCAA Basketball - Illinois vs. Indiana. Henson’s fighting Illini meet up with Bobby Knight’s Hoosier Team in this Big Ten Conference Matchup” (col. 16, l. 15-22 & Figs. 6-8). Rowe et al. also discloses updating the information in the program summary panel, so that the information in the program schedule displays information is consistent with the program. As such, the examiner interprets the display in Figures 2-8 to be an NCAA basketball world, and the displays corresponding to other program selections to be other “virtual worlds” corresponding to those selections.

The examiner respectfully disagrees with Applicant’s assertion that, in order for Rowe et al. to teach the features of a virtual world related to the content in Figure 2, Rowe et al. would need to show a virtual world of a basketball court, or a basketball arena. Applicant’s specification describes a dynamic relationship between the selection of content by a user and the selection of a specific virtual world (p. 4, paragraph 10). Applicant’s specification further recites an example where, in response to selection of a sports channel by a user, a virtual world is presented with the image of a large baseball and bat and a logo indicating that a baseball game is being shown on a particular channel (p. 10, paragraph 34). This is similar to Rowe et al., who discloses that, in response to selecting a basketball channel, a graphic image of a basketball is displayed with the logo “NCAA” centered on top (col. 16, l. 14-22 & Figs. 2-8). As such, the examiner maintains that Rowe et al. teaches “virtual worlds,” as currently claimed. Thus, the

examiner maintains that the combination of Rowe et al. and Boylan, III et al. teaches the limitations of “a first unit to generate an interactive three-dimensional (3-D) electronic programming guide (EPG), the 3-D EPG including a presentation of a virtual world” and “a first class of objects providing a plurality of virtual worlds presentable in the EPG,” as currently claimed.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-3, 5, 8-10, 12-14, 16, 19-21, 23-25, 27, 29-31, 33, 35-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe et al. in view of Boylan, III et al.

Referring to claims **1, 12, and 23**, Rowe et al. discloses a system/method, comprising:

- a first unit 32 to generate an interactive three-dimensional (3-D) electronic programming guide (EPG), the 3-D EPG including a presentation of a virtual world (col. 6, l. 50-59; col. 8, l. 34-37; col. 14, l. 8-67; col. 15, l. 1-67; col. 16, l. 1-22; & Figs. 1, 2);
- a database interconnected to an offline archive storing a plurality of objects associated with past programming events (col. 3, l. 23-38; col. 5, l. 23-50; col. 13, l. 48-56; & col. 14, l. 33-55), the plurality of objects comprising EPG objects (col. 5, l. 23-38) and non-EPG objects 92, the EPG objects comprising a first class of objects providing

- a plurality of virtual worlds (col. 14, l. 8-67; col. 15, l. 1-67; col. 16, l. 1-22; & Figs. 2-8) presentable in the EPG, and including 3-D images (col. 5, l. 36-42; col. 7, l. 62-67; & col. 8, l. 1, 21-37), alphanumeric text (col. 4, l. 8-19) and video data (col. 14, l. 33-55); and
- a user interface (UI) for interaction with the objects (col. 7, l. 1-15 & col. 9, l. 29-46).

Rowe et al. does not disclose that the non-EPG objects comprise interactive localized content and electronic commerce (e-commerce) objects and a user interface (UI) for interaction with the localized interactive content and e-commerce objects. Boylan, III et al. discloses replacing global advertisements with local advertisements in a program guide (p. 1, paragraph 11) and allowing a user to interact with the advertisements (p. 4, paragraph 54). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to replace the preview section of Rowe et al. with interactive local advertisements, such as that taught by Boylan, III et al. in order to provide an interactive television program guide system in which users may be provided with local program guide advertising (p. 1, paragraph 7).

Referring to claims **2**, **14**, and **24**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1, 12, and 23, respectively, wherein the system comprises a set-top box (Rowe et al. col. 6, l. 50), a television (Rowe et al. col. 2, l. 43), or a VCR.

Referring to claims **3** and **25**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1 and 24, respectively, wherein the system includes a plurality of drivers, one of the drivers communicating with a separate unit to replenish programming information (Rowe et al. col. 7, l. 1-15).

Referring to claims **8**, **19**, **29**, and **31**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1, 12, 27, and 30, wherein the EPG objects comprise a first class of objects (summary panel 90) providing a plurality of virtual worlds included in the 3-D EPG (the examiner notes that the information shown in summary panel 90 corresponds to the selected tile appearing within the viewing panel 58)(Rowe et al. col. 14, l. 8-55 & col. 15, l. 1-30).

Referring to claims **5**, **16**, and **27**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1, 12, and 23, respectively, wherein the EPG objects comprise a second set of objects (program tiles) that includes at least one of a schedule times, channel identification, or title, corresponding to a program (Rowe et al. col. 4, l. 8-11).

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claims **9**, **20**, and **30**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 8, 19, and 29, respectively, wherein a subset of the virtual world is displayed as a matrix of rectangular boxes containing current program information (the examiner notes that program summary panel forms a matrix of rectangular boxes containing current program information (preview section 92 and text description section 94)(Rowe et al. col. 14, l. 33-42 & Figs. 2-4).

Referring to claims **10**, **21**, and **33**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1, 20, and 27, respectively. Rowe et al. further discloses Tiger video files for display in the preview section 92. Each Tiger video file is stored at the location of the headend processor and distributed in response to a request output by the

subscriber's set-top converter 32 (col. 15, l. 1-13). Rowe et al. does not disclose uploading localized content in real time. Boylan, III et al. discloses a computer 94 that retrieves local advertisements from advertising database 57 as needed for transmission to user television equipment 54 (p. 5, paragraph 68). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Rowe et al. and Boylan, III et al. to include distributing local advertisements to users as needed, such as that taught by Boylan, III et al. in order to present current information to a user.

Referring to claim **13**, the combination of Rowe et al. and Boylan, III et al. teaches the computer-implemented method of claim 12, wherein the EPG objects comprise a plurality of objects associated with current programming events (col. 5, l. 10-12).

Referring to claims **35** and **38**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1 and 12, respectively, wherein the 3-D EPG includes a presentation of a virtual world selected on the basis of a user's age (Rowe et al. col. 7, l. 28-30 & col. 11, l. 23-40).

Referring to claims **36** and **39**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1 and 12, respectively, wherein the 3-D EPG includes a presentation of a virtual world customized by user preferences (col. 2, l. 44-47 & col. 14, l. 21-32).

Referring to claims **37** and **40**, the combination of Rowe et al. and Boylan, III et al. teaches the system/method of claims 1 and 12, respectively, wherein the 3-D EPG includes a presentation of a virtual world selected by a programmer (col. 6, l. 2-8).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit
2623

MVH